

March 5, 2009

TO: Sally Farrar, Classification Director  
Kathy Andruss, Classification Specialist  
Washington Federation of State Employees (WFSE)

FROM: Teresa Parsons  
Director's Review Program Supervisor

SUBJECT: John Guthrie v. Department of Licensing (DOL)  
Allocation Review Request ALLO-07-099

On December 4, 2008, I conducted a Director's review conference at the Department of Personnel, 2828 Capitol Boulevard, Olympia, Washington, concerning the allocation of Mr. Guthrie's position. Besides each of you, the following individuals were present at the Director's review conference: John Guthrie; Bob Keller, WFSE Field Supervisor; Tana Gann, WFSE Field Representative; Shelby Krismer-Harada, DOL Classification and Compensation Specialist; Diane Christie, DOL Human Resources Manager; Shelly Hagen, Deputy Assistant Director for the Business and Professional Division at DOL; and Jerry McDonald, Assistant Administrator for Real Estate Programs at DOL.

### **Director's Determination**

This position review was based on the work performed for at least the six-month period prior to March 14, 2007, the date Mr. Guthrie submitted his Position Review Request to DOL's Human Resources Office. As the Director's designee, I carefully considered all of the documentation in the file, the exhibits presented during the Director's review conference, and the verbal comments provided by both parties. Although there were several class specifications presented spanning different periods of time, I compared Mr. Guthrie's assignment of work to the class specifications in effect on March 14, 2007. Based on my review and analysis of Mr. Guthrie's assigned duties and responsibilities, I conclude his position is properly allocated to the Licensing Services Manager 1 classification.

### **Background**

Mr. Guthrie is assigned to the Real Estate, Appraisers, Timeshares and Camp Resorts Section, which is part of the Business and Professions Division at DOL. Specifically, Mr. Guthrie works with the programs related to timeshares, camping resorts, and real estate. At the time relevant to this review, he reported to Karen Jarvis, Washington Management Service (WMS) Regulatory & Enforcement Program Manager, who reported to Jerry McDonald, WMS Assistant

Administrator for the Division. Mr. McDonald reported to the Real Estate, Appraisers, Timeshares and Camp Resorts Section Administrator, Lee Malott (Exhibit C-12). Another portion of the organizational chart shows Mr. Malott reporting to Business and Professions Division Deputy Assistant Director Shelly Hagen and the Division's Assistant Director, Ralph Osgood (Exhibits C-5 and F). During the Director's review conference, Mr. Guthrie's management was represented by his second-line supervisor, Mr. McDonald, and the Division Deputy Assistant, Ms. Hagen.

On March 14, 2007, Mr. Guthrie submitted a Position Review Request (PRR) to DOL's Human Resources Office, requesting that his Licensing Services Manager 1 position (#1466) be reallocated to a higher-level classification (Exhibits A-3; C-10 and 11). The classifications considered included: Investigator 4, Management Analyst 4, Administrative Regulations Analyst 1 and 2, Administrative Program Specialist 2, and Functional Program Analyst 3 and 4. Because Mr. Guthrie's supervisor had not completed the supervisory section of the PRR, Ms. Krismer-Harada returned it to Mr. McDonald for completion by Mr. Guthrie's supervisor (Exhibit C-7). DOL honored March 14, 2007, as the date he submitted his request for reallocation.

On March 21, 2007, Mr. Guthrie provided HR with a completed Reallocation Supplemental Form, which included his signature as well as Ms. Jarvis's signature (Exhibit C-9). On March 23, 2007, Ms. Jarvis and Mr. Malott signed the PRR, indicating that the information was accurate and complete (Exhibit C-10). Ms. Jarvis also provided a written attachment to the PRR listing examples of decisions Mr. Guthrie had been authorized to make without her prior approval (Exhibit C-11). Ms. Krismer-Harada conducted a desk audit of Mr. Guthrie's position on April 27, 2007, and documented her findings from the audit (Exhibit C-24). Prior to issuing DOL's allocation decision, Ms. Krismer-Harada asked that an independent consultant conduct a desk review of Mr. Guthrie's position. In July 2007, Mr. Joe Gross reviewed Mr. Guthrie's position, concluding the Functional Program Analyst 4 (the class Mr. Guthrie originally requested in the March 2007 PRR) did not fit. Instead, Mr. Gross suggested the Professional Licensing Manager 2 (PLM 2) as a possible fit (Exhibits C-30 – 32). On September 25, 2007, Ms. Krismer-Harada ultimately determined the Licensing Services Manager 1 classification to be the best fit (Exhibit C-6).

On October 23, 2007, the Department of Personnel received Mr. Guthrie's request for a Director's review of DOL's allocation determination. In his Director's review request, Mr. Guthrie asked that his position be reallocated to a Hearings Examiner 2, Financial Examiner 3, or equivalent classification (Exhibit A-1 and C-3).

After Mr. Guthrie filed his request for a Director's review but prior to the Director's review conference, DOL contracted with another independent consultant to review Mr. Guthrie's position. On October 15, 2008, Ms. Barb Vane prepared her Position Review Findings (Exhibit E). Like Mr. Gross, Ms. Vane concluded Mr. Guthrie's duties fit within the PLM 2 classification, but she recognized that the PLM 2 was a lower job classification than the LSM 1. As a result, Ms. Vane concluded the LSM 1 was the best fit for the position.

In her role as Mr. Guthrie's union representative, Ms. Farrar also prepared a Position Review Summary after interviewing him about his position. During the Director's review conference, Ms. Farrar presented her version of Mr. Guthrie's position description (Exhibit G-1). I informed the parties I would accept Ms. Farrar's document as an illustration of Mr. Guthrie's argument—

meaning his characterization of the duties he performs. In response, DOL also provided a follow-up document countering points included in Ms. Farrar's summary document (Exhibit G-2). Similarly, I accepted this as part of DOL's argument. Both parties made additional points in follow-up emails, which I considered as each party's respective argument (Exhibits G-3 and 4).

### **Summary of Mr. Guthrie's Perspective**

Mr. Guthrie contends the primary focus of his position is to perform a comprehensive examination and analysis of timeshare and camping resort entities for compliance and registration. As a result, Mr. Guthrie asserts he examines real estate laws and rules and conducts comprehensive research and analysis to determine the viability of those entities being promoted to consumers. Mr. Guthrie contends that before issuing a registration for a timeshare or camping resort, he reviews and analyzes relating documentation such as public offering statements, financial statements, disclosure statements, declarations, deeds, bylaws of home owner associations, articles of incorporation, encumbrances, mortgage liens, selling costs, and escrow insurance to ensure proper disclosures to potential buyers.

Mr. Guthrie states that he asks for additional documents when submissions do not meet the requirements of the law or when he sees a potential for risk. Mr. Guthrie indicates that he prepares a written report identifying the deficiencies and suggesting remedies and corrective action. Mr. Guthrie asserts he has the authority to make the final approval of registrations before processing applications through the system. He further asserts the agency recognizes him as the technical expert for these regulated entities and states that his interpretations are considered when there is no written policy. Mr. Guthrie contends his analyses and conclusions may be referred to legal staff in the event of a hearing.

Mr. Guthrie agrees that the majority of classes reviewed during the agency's allocation review were not the appropriate classes for his position. Primarily, Mr. Guthrie believes the duties and responsibilities assigned to his position reflect a higher level of work than his current classification. As one option, Mr. Guthrie asserts the Functional Program Analyst 4 class used in the Insurance Commissioner's Office provides a good fit for the duties and responsibilities assigned to his position. While he acknowledges he does not work with insurance matters, he believes the duties of the class more closely resemble the work he performs. Mr. Guthrie compares the evaluation of documents and operations of insurance-related entities to timeshares and camping resorts, noting they are also regulated entities.

In addition, Mr. Guthrie asserts the Financial Examiner classes also provide a better fit for his duties and responsibilities. Ms. Farrar provided some background regarding the history of the classes. To illustrate her points, Ms. Farrar provided class specifications for the abolished Securities Analyst series and Board items with an explanation for merging this series with the Financial Examiner series in 2001 (Exhibits D-6 and 7). Ms. Farrar also provided Financial Examiner class specifications in effect prior to July 2007 (class codes 13300-13320), and Director's (described as Board) items explaining the changes to the new Financial Examiner class specifications effective July 1, 2007 (class codes 161 E-G) (Exhibits D-4 and 5).

Specifically, Mr. Guthrie contends that the Financial Examiner 2 and 3 classes show the same type of work goals and objectives, skill level, and responsibility. Mr. Guthrie argues the work is very similar except that the research, analysis, and registration of regulated entities are for

timeshares and camping resorts. Mr. Guthrie argues that the LSM 1 classification is not a fit at all because it is not his job to manage programs. Mr. Guthrie does not believe his duties fit the LSM 1 definition, and he states he does not serve as a manager who plans, develops, monitors, budgets, and evaluates. He contends those program functions are performed by higher level staff.

### **Summary of DOL's Reasoning**

DOL states that Mr. Guthrie's position had been reallocated from a Real Estate Investigator to the LSM 1 class in 2005. DOL asserts that in 2005, Mr. Guthrie's work shifted from responding to real estate complaints to including more research, review, and analysis of complex real estate licensing transactions. DOL asserts that Mr. Guthrie's duties also included reviewing applications and amendments to register timeshares and camping resorts to ensure compliance with laws and regulations. DOL contends there has not been a significant change in Mr. Guthrie's assigned duties since the 2005 position review. DOL, however, acknowledges that the 2007 position review showed more time devoted to reviewing and investigating timeshare and camping resort registrations and the associated documentation.

DOL contends that in September 2006, Mr. Guthrie contacted Ms. Krismer-Harada for assistance in finding a position with a higher salary. DOL further contends that Mr. Guthrie's supervisor at the time supported his promotion. DOL points out that a position's allocation is not based on performance or an employee's desire to promote to a higher-level position but recognizes Mr. Guthrie's knowledge and expertise in the area of real estate. DOL asserts that the agency operates within the scope of the statutes specific to registering timeshare and camping resorts and contends that applications for licensure are approved if minimum requirements are met. DOL acknowledges that Mr. Guthrie may make suggestions to DOL customers and provide technical assistance based on his real estate background. However, DOL argues that even with Mr. Guthrie's added recommendations, the customers may still qualify to receive the license based on the standards for registration outlined in the statutes governing timeshare and camping resorts.

DOL asserts Ms. Krismer-Harada reviewed a number of classifications and while the LSM 1 may not be a perfect fit, DOL believes the LSM 1 is the best fit based on Mr. Guthrie's work managing the timeshare and camping resort registration programs. Because the timeshare and camping resort programs are smaller programs, DOL contends Mr. Guthrie is the primary individual assigned to review applications and amendments and provide technical assistance for the programs. DOL notes that LSM 1 positions perform a wide variety of assignments tied to specific programs and contends the organization is structured in such a way that other LSM 1 positions perform similar functions for other programs. DOL contends that the Functional Program Analyst 4 and Financial Examiner classes are not appropriate for Mr. Guthrie's position because he does not evaluate insurance practices or regulate financial entities.

While DOL acknowledges Mr. Guthrie reviews financial documents in the context of licensing timeshares and camping resorts, DOL asserts he is not reviewing the documents for issues like solvency. DOL further asserts Mr. Guthrie's primary responsibility is to review the licensing applications with respect to DOL's regulating authority and contends the review of associated documents such as financial statements is only a portion of his job. In addition, DOL points out that abolished class specifications are not appropriate for consideration.

DOL maintains the LSM 1 class is appropriate for Mr. Guthrie's assignment of work. DOL contends Mr. Guthrie manages the daily work of reviewing and processing registrations for timeshares and camping resorts, as well as inquires for those and other real estate transactions. While DOL agrees that Mr. Guthrie does not manage the full breadth of a budget, the agency argues that the operating functions of the program, including revenue fee projections, are part of his responsibility. On a best fit basis, DOL believes Mr. Guthrie's position is properly allocated.

### **Rationale for Director's Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Mr. Guthrie's request for a Director's review, he emphasized that his duties require work performed at a much higher pay level than his current classification. He also indicated that his current classification "is a 'dead end' position in which there is no room for growth . . ." and that he works in an office "where a number of people receive considerably more pay for performing duties and responsibilities at a lower skill level than [his]" (Exhibit A-1, page 3). On the same page of the Director's review request, Mr. Guthrie also stated that his future retirement benefits will be "diminished by the failure to properly value [his] duties . . . and he has been "a hardworking DOL employee for approximately 15 years . . ."

With reference to the above citation from the former Personnel Appeals Board (PAB), also cited by the current Personnel Resources Board (PRB), I want to reiterate that the scope of a position review is based on the work assigned to a position and performed by the incumbent in that position. There is no question Mr. Guthrie has background knowledge in the area of real estate transactions, including the legality of the various relating documents. The allocation of Mr. Guthrie's position is not a reflection of his performance. Likewise, his position's allocation is not based on his ability to perform duties at a higher level than his position's scope of work. Rather, it is based on the majority of work assigned to his position and how that work compares to the available job classifications.

With regard to a "best fit," the former PAB addressed the concept in Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998). The PAB noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position. The PRB has continued to maintain this concept of best fit, as addressed in Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007).

### Duties and Responsibilities

The purpose of Mr. Guthrie's position, as described by the documents in the record, is summarized as follows:

The position exists due to a statutory requirement for review of the most complex timeshare and camping resort applications and associated documents. The associated documents may include financial statements, public offering statements, purchase agreements, timeshare condominium declarations and association by laws. The position also serves as a resource for analysis of inquires and complaints involving complicated real estate scenarios or a review of complicated real estate documents. Examples include title reports, deeds, legal descriptions, and contracts.

(PRR, Exhibit C-7).

Based on Mr. Guthrie's statements in the Reallocation Supplemental Form (Exhibit C-8) and his comments during the Director's review conference, the duties he performed at the time of the March 2007 review were essentially the same as those performed in 2005. However, Mr. Guthrie noted that more time was spent performing work related to the Timeshare and Camping Resort Programs. This is consistent with Mr. Guthrie's description of his duties on the PRR, which indicate his work time is spent as follows:

45% Timeshare Program  
15% Camping Resort Program  
40% Real Estate Program (responding to statewide telephone and written inquires involving real estate transactions).

(Exhibit C-10, page 4).

Because Mr. Guthrie indicated that the primary duties of his job had remained the same since the 2005 position review, I also reviewed Ms. Jarvis's description of his position at that time, which read:

This position within the Department of Licensing, Real Estate, Timeshare, and Camping Resort Programs researches, reviews and analyzes complicated real estate transactions, and other materials for compliance with state laws and regulations. Reviews and analyzes complicated applications and amendments to Timeshare Companies and Camping Resorts, and other materials for compliance with state laws and regulations. Assists the public and/or the industry in solving problems regarding real estate transactions. Educates the Real Estate Licensing Staff, Real Estate Investigators, and the public or industry regarding real estate issues.

(Exhibit C-15).

Similarly, Ms. Jarvis's attached statement to the PRR affirmed that Mr. Guthrie reviews timeshare and camping resort registrations for compliance with law and rule and the related materials, consistent with the summary of the position's purpose on the PRR. Ms. Jarvis also wrote, in part, "[w]hile his interpretations have not become written policy, they do become the standard that is uniformly applied to similar situations in other company registrations and

disclosure documents" (Exhibit C-11). During the Director's review conference, DOL clarified that maintaining the standard meant consistently applying the same criteria to similar registrations. In her notes from the desk audit, Ms. Krismer-Harada identified Mr. Guthrie's decision-making criteria within the scope of accepting applications for licensure, including:

- Knowledge of program
- Knowledge of past practices
- Reliance on some former AAG's decisions
- Case precedent

Ms. Krismer-Harada also noted that a decision regarding a violation would be made by Ms. Jarvis and that Ms. Jarvis's (Karen's) decision was binding (Exhibit C-24). Ms. Jarvis is the Regulatory & Enforcement Program Manger.

In the attachment to the PRR, Ms. Jarvis also noted Mr. Guthrie's role in acting as "critical 1<sup>st</sup> responder in analyzing and screening telephone and written inquires to advise and educate the public, industry professionals, and attorneys." This statement is similar to her earlier description of assisting and educating the public, industry, and DOL staff in solving problems regarding real estate transactions. In addition, the duties described on the 2005 PDF are fairly consistent with those described on the PRR and the supplemental information, with the exception of the distribution of time spent performing the duties (Exhibit C-17).

To illustrate, the PDF signed by Mr. Guthrie and Ms. Jarvis on September 22, 2005, breaks down his assigned work as follows:

- 60% Researches and investigates disputes between consumers and real estate licensees and responds to statewide inquiries (listed as 40% on the PRR).
- 35% Analyzing applications and amendments, reviewing background materials like financial statements and public offering statements, and answering inquires related to Timeshares and Camping Resorts.
- 5% At the request of the Regulatory & Enforcement Program Manger and Real Estate Complaint Intake Manager: review and analyze complaints regarding complicated issues and assisting Investigator 3's regarding inquires about documents such as deeds, title reports, real estate closing statements, and other closing documentation.

The majority of Mr. Guthrie's assigned work, as stated on the PRR (Exhibit C-10) encompasses the 35% identified above on the PDF (Exhibit C-17). As such, the majority of his time involves reviewing Timeshare and Camping Resort applications to determine whether the registrations can be completed in accordance with the related laws. Mr. Guthrie also reviews renewals of such registrations, which he acknowledged are less complicated than the original applications. Both parties agreed that a new application required more analysis than the renewal of an existing registration. While some applications may be complex, others may be routine in nature. The criteria for such registrations are established in RCW 64.36.030 for timeshares and RCW 19.105.320 for camping resorts (Exhibits A-5 & A-6). The application procedures are also listed on DOL's website (Exhibit C-40). As described on the PRR, the materials attached to an

application may include financial statements and other associated documents; however, the review of such documents is performed in the context of the registration process. Additionally, the review of the supporting documents, like financial statements, is one component of Mr. Guthrie's total review in determining whether the standard for licensing has been met.

On the Supplemental Reallocation Form, Mr. Guthrie wrote, in part:

The primary focus of my position has evolved to encompass review, research, investigation, and analysis of the most complex contracts, filings, or inquires that involve issues of compliance with laws and regulations. I confer with executives, compliance staff, accountants and attorneys of real estate, timeshare, and camping resort firms. I function as a technical expert responsible for the day-to-day regulatory oversight of the timeshare and camping resort promoters, while keeping program management aware of major issues.

Mr. Guthrie undoubtedly clarifies information for the customers and professional representatives listed above as it relates to processing registration applications. However, Mr. Guthrie's "regulatory oversight" is in the context of processing applications for registration. His supervisor, Karen Jarvis, is the Regulatory & Enforcement Program Manager. As indicated by Ms. Krismer-Harada's desk audit notes, decisions regarding a regulatory violation reside with Ms. Jarvis. In addition, Mr. Guthrie shares his technical expertise with his co-workers and managers, but DOL indicated that Mr. McDonald, as the Division's Assistant Administrator, acts as the agency expert for the Real Estate Section at administrative hearings.

I recognize that based on Mr. Guthrie's knowledge of real estate transactions, he provides technical assistance to customers and makes his managers aware of areas to strengthen and improve consumer protection. This is evident by the examples he describes as "unprecedented decision-making" (Exhibit C-27). It is also evident that DOL values and appreciates Mr. Guthrie's contributions. Still, it is not within Mr. Guthrie's purview to make legal determinations outside the scope of approving or renewing applications for licensure. This is supported by Ms. Farrar's statement that Mr. Guthrie will forward information needing further investigation "to program management or appropriate staff to conduct that investigation" (Exhibit G-3, page 2). Mr. Guthrie's responsibility for approval relates directly to the acceptance or denial of applications or renewals for timeshare and camping resort registrations.

It is undisputed that at the time of this review, Mr. Guthrie was the only individual reviewing these applications for registration, which is consistent with his statement that "the day-to-day operation of the Timeshare and Camping Resort Programs was added as one of my responsibilities" (Exhibit C-9, page 1 of Reallocation Supplemental Form). Since the time of Mr. Guthrie's request, there has been a request for a Customer Service Specialist 2 position to assist Mr. Guthrie with some of the review processes (Exhibits C-73-85).

#### Comparison of Job Duties to Class Specifications

When comparing the assignment of work and level of responsibility to the available class specifications, the class series concept (if one exists) followed by definition and distinguishing characteristics are primary considerations. When comparing Mr. Guthrie's assigned duties and responsibilities to the job classifications in effect on March 14, 2007, I considered the class

specifications reviewed by DOL (Exhibits C-46 – 72). However, a number of the classes were either outside the scope of Mr. Guthrie's position or did not encompass the correct level of responsibility assigned to his position. I have included my analysis with regard to the following job classes because they were identified as possible considerations by one of the parties:

**Functional Program Analyst 3 and 4 (class codes 162I and 162J)**  
**Class Series Concept:**

Positions in this occupational group **examine and evaluate insurance practices, contract forms, and/or operations of regulated program entities such as health care service contractors, health maintenance organizations, insurance licensees, life and disability, or property and casualty insurance companies.** Positions analyze and review functional practices, contracts, forms, service agreements, agreements, policies and other materials and provide consultation to insurers, contractors, staff and others.

The Functional Program Analyst classes are not the appropriate fit for Mr. Guthrie's assigned duties and responsibilities because the primary function is to evaluate insurance practices. This type of research, review, and analysis includes the evaluation of insurance contracts, insurance operations, health care contractors, and/or insurance licensees.

**Financial Examiner 1, 2, and 3 (class codes 13300; 13305; and 13320)**  
**Class Series Concept (in part):**

The Financial Examiner is a professional series that performs analysis of financial data, documents or statements **to assess the soundness and viability of the financial institutions or financial service companies** or issuers, or compliance with federal or state laws. Positions in this series may specialize in one or more of the following areas:

**Applications/Registrations:** Incumbents **analyze financial statements and materials from financial institutions, financial services companies** or issuers, or associated persons for charters, registrations, licenses, or exemptions from registration or amendments to existing charters, registrations, licenses or exemptions and compliance with regulatory standards including safety and soundness.

**Examinations:** Generally incumbents **perform site visits to financial institutions or financial services companies . . .**

**Enforcement:** Incumbents analyze, investigate, and prepare to take action against institutions, companies issuers, or persons **violating the laws relating to financial institutions, financial service companies . . .**

Although Mr. Guthrie reviews financial statements as part of the total application process for timeshare and camping resort registrations, he has not been assigned responsibility for analyzing or evaluating financial data to assess the soundness and viability of financial institutions or financial service companies. The analysis for registration, evaluation, or enforcement relates to

financial institutions or financial services, not real estate licensing. As a result, the Financial Examiner classes are not the best fit for Mr. Guthrie's position.

**Hearings Examiner 2 (class code 47220)**  
**Distinguishing Characteristics (in part):**

. . .

All Hearings Examiners 2 conduct hearings of contested issues in which two or more parties are represented by counsel, and in which they are regularly required to make independent determinations of procedure and admissibility of evidence without supervisory assistance. Findings and proposed orders are normally written at a headquarters office where technical or supervisory assistance is usually available though infrequently requested or offered.

. . .

While Mr. Guthrie may examine applications and the supporting documentation for registration, he has not been assigned Hearings Examiner duties in the context described above. For example, his position has not been assigned the responsibility of conducting hearings or writing proposed findings and orders. Therefore, the Hearings Examiner classes are not the best fit.

**Professional Licensing Manager 2 (PLM 2) (class code 48966)**  
**Definition:**

Within the Professional Licensing Division of the Department of Licensing, assists a Professional Licensing Administrator in planning, organizing and directing the licensing activities of a professional licensing program.

**Distinguishing Characteristics:**

Positions in this classification are responsible for managing the work pertaining to specific professional licensing program(s) and to administer the laws relating to professional licensing for the protection of the public. Incumbents have responsibility for three or more of the following functions:

1. Initiates and reviews background investigations on license and/or registration applicants. Evaluates documents used to verify compliance with licensing/registration requirements, approves applications, prepares statements of grounds for denial.
2. Responsible for the investigation of complaints and formal disciplinary actions against licensed professionals. Initiates investigative inquiries of licensees or license applicants based on violations of the law or possible violations of State laws or regulations. Works with staff attorneys and/or Assistant Attorney General in preparing statement of charges, stipulated agreements and final orders.
3. Directs the preparation and administration of examinations, including recruitment and use of item writers and test writing committees, recruitment and supervision of test proctors, scheduling of candidates and facilities, and responsibility for security of examination materials.

4. Responsible for managing all activities of a professional licensing board. Develops and administers procedures to implement board actions, policies and business plans. Serves as liaison between the board and the agency.
5. Analyzes and recommends legislative changes for responsible program area(s). Prepares legislative critiques, fiscal notes and testifies at legislative hearings. Develops and administers procedures to implement new legislation, policies and rules.

As a best fit, Mr. Guthrie's duties and responsibilities fit within the PLM 2 classification because he initiates and reviews background information related to licensing and registration of timeshares and camping resorts, similar to item #1 above. Also, similar to item #2, a portion of Mr. Guthrie's job still requires investigation into complaints and inquires regarding real estate transactions. Mr. Guthrie's analyses and recommendations for changes may also be a best fit for item #5. In addition, the PLM 2 typical work examples, while not the basis for allocation, lend support to the work envisioned. PLM 2 typical work examples similar to Mr. Guthrie's include:

- Managing the work and administering the laws relating to professional licensing for the protection of the public;
- Determining appropriate action on unlicensed practice;
- Initiating investigations of licensees or license applicants based on violations or possible violations of State laws or regulations;
- Initiating and reviewing applicant background investigations;
- Evaluating documents and approving applications, ensuring compliance with licensing/registration requirements;
- Providing direction and guidance on complex issues to staff, applicants, and the public.

Although Mr. Guthrie's duties and responsibilities provide a best fit option for the PLM 2 class, DOL has indicated the LSM 1 is a better fit due to Mr. Guthrie's daily oversight of the Timeshare and Camping Resort Programs. Based on the depth and breadth of his responsibilities, as well as the organizational structure of similar, smaller programs, DOL believes allocation to the LSM 1 is appropriate.

#### **Licensing Services Manager 1 (LSM 1) (class code 48840)**

##### **Definition:**

Within the Department of Licensing, **manages one or more statewide licensing service programs**. Responsibilities include planning, developing, monitoring, budgeting and evaluation.

Within the framework of the licensing service programs of Timeshares and Camping Resorts, Mr. Guthrie plans, develops, and monitors the day-to-day oversight of analyzing, reviewing, processing, and approving applications for registration. He also creates revenue forecasts based on licensing fees. Further, while not all of the LSM 1 typical work examples describe Mr. Guthrie's work, he does provide assistance in the interpretation of licensing laws and regulations; guidance to staff responsible for quality customer service for his assigned programs; and technical assistance to staff providing customer service.

I considered the numerous documents describing Mr. Guthrie's duties and responsibilities, as well as his supervisor's written comments, DOL's observations during the desk audit, and the comments made by all parties during the Director's review conference. The preponderance of evidence regarding the assignment of work to Mr. Guthrie's position (#1466) supports allocation to the LSM 1 classification.

### **Appeal Rights**

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

c: John Guthrie  
Tana Gann, WFSE  
Shelby Krismer-Harada, DOL  
Lisa Skriletz, DOP

Enclosure: List of Exhibits